



Paid for by Graves for Congress

Graves For Congress
4701 Northwest 82nd Street
Kansas City, MO 64151

Phone 816 480-5835
FAX 816 292-2001

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TERRY J. BRADY
(816) 480-5835
EMAIL: TBRADY@PLATINUMCAMPAIN.COM
WWW.PLATINUMCAMPAIN.COM

2165 GRAND BOULEVARD
SUITE 2800
KANSAS CITY, MISSOURI 64108-2884
(816) 292-2000 FAX (816) 292-2001

January 6, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Robin Kelly
Campaign Finance Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: Identification Number C00359034
Graves for Congress

Amended 12 Day Pre-General Report (2/1/04-10/13/04),
Received 11/15/04

Dear Ms. Kelly:

This will acknowledge your letter dated December 9, 2004, requesting a clarification of the Amended 12 Day Pre-General Report of Graves for Congress, a copy of which is attached hereto.

We spoke by telephone on December 29, and received your permission to file the committee's response by hard copy, which we are doing by Federal Express, and also by facsimile.

The correspondence requested the Committee's clarification of the Amended 12 Day Pre-General Report received by the Commission on November 15, 2004 in that it "discloses a substantial increase in the amount of receipts and/or disbursements from those disclosed on your original report." Please be advised as follows:

The Amended 12 Day Pre-General Report reflected an increase in contributions totaling \$32,000. This sum was the total of a batch of checks that were received by the campaign during early October, 2004, during the Pre-General Reporting period, but were

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misplaced and not found until after the close of that period, and therefore were not recorded on the original Pre-General Report.

The specific circumstances of the discovery and reporting of the missing checks are more fully described on the enclosed affidavit from the campaign staffer responsible for recording the checks, Robin A. McClean. Ms. McClean routinely received contributions mailed or delivered to the campaign office, and processed and deposited the contributions, and she was personally involved in the discovery and reporting of these missing checks.

To briefly summarize these circumstances, Ms. McClean received a number of checks totaling \$32,000 on or about October 8, 2004. On the day she received the checks, she was unable to completely process the checks for deposit, and she placed them in a single envelope in her desk drawer at the campaign office, as she would typically do for safekeeping of checks until they could be processed and deposited. These particular checks were in an unmarked envelope in her desk drawer, and she mistakenly neglected to retrieve these checks from her drawer after her return to the office the following day. The checks remained in her desk until she discovered them while cleaning out her desk on November 4, 2004, one day before her last day of employment.

Immediately upon discovering these checks, Ms. McClean contacted me, the Treasurer of Graves for Congress, and recounted these circumstances. After consulting with counsel and researching applicable federal regulations and FEC Advisory opinions for guidance on this issue, I instructed her to deposit the checks in the campaign account immediately, which she did the following day, November 5, 2004. I then proceeded to file the Amended 12-day Pre-General Report to reflect the receipt of the contributions at the campaign office.

FEC regulations do not specifically address this issue. While the regulations require that all contributions be deposited within ten days of receipt by a committee, 11 CFR 103.3(a), we found no regulation that addresses what a committee should do with contribution checks that are not deposited within that 10-day period.

Accordingly, my instructions to deposit the checks and amend the Pre-General Report were based largely on FEC Advisory Opinion ("AO") No. 2000-11. In AO 2000-11, the FEC was presented with a nearly identical factual scenario, where 14 contribution checks were misplaced by the treasurer of a political committee over the course of three years. The checks were found in the treasurer's desk drawer, without ever having been deposited or reported on the committee's FEC filings. The checks were stale-dated and

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no longer negotiable. Therefore, the committee requested the FEC's opinion as to whether it could seek to obtain replacement checks from the contributors.

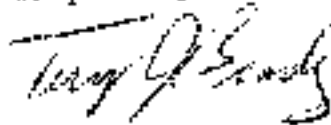
The FEC advised the committee in AO 2000-11 that replacement checks could be obtained and deposited, and that all affected prior reports should be amended to reflect the dates of original receipt of the contributions. The Commission reasoned that this would best reflect the intent of the contributors, as it noted that "barring deposit of the funds into the [committee] account would not effectuate the intent of contributors who have lawfully relinquished control and possession of the funds." AO 2000-11. The Commission also noted that the failure to comply with applicable regulations was not intentional or the result of any malfeasance.

Similarly, Ms. McClean's failure to timely deposit the checks was clearly not intentional. In fact, the campaign committee strived to deposit and report as much cash on hand as possible prior to the general election. The failure to record and deposit the checks certainly did not benefit the campaign in any way— if anything, it worked against the campaign's objectives of collecting and reporting contributions to the greatest extent possible.

Therefore, based on the innocence of this mistake, and based on the fact that the checks would still be deposited within a reasonable period (less than 30 days) after receipt by the Committee, we concluded that depositing the checks best effectuated the intent of the contributors, and we revised the report reflecting the date of receipt of the contributions (i.e., the Pre-General Election Report) accordingly. This result is consistent with the advice provided in AO 2000-11.

If we can be of additional assistance or provide additional information, please do not hesitate to advise.

Respectfully submitted,



Terry J. Brady

AFFIDAVIT OF ROBIN A. McCLEAN

STATE OF MISSOURI)
) ss.
 COUNTY OF JACKSON)

ROBIN A. McCLEAN, of lawful age, having been first duly sworn, upon her oath deposes and states as follows, to wit:

1. That I was a senior student at William Jewell College in Liberty, Missouri, when I became a full-time staff member for Graves for Congress on May 10, 2004. I worked at the Graves for Congress headquarters at 105 East Mill Street, Liberty, Missouri 64068.
2. That my duties included the receipt, organization and recording of all contributions to the campaign; maintenance of fundraising lists and donor history; organization of fundraisers; and acting as a field representative for one county.
3. That my last day of employment with Graves for Congress was November 5, 2004.
4. On November 4, 2004 while cleaning out my desk at the campaign headquarters, preparing to leave the campaign staff, I uncovered an unmarked plain manila envelope in my desk that I had inadvertently tucked in the drawer under another group of papers.
5. When I opened the envelope I discovered a group of campaign contribution checks totaling \$32,000. I immediately reported my discovery to the Graves for Congress Committee Treasurer, Terry J. Brady, and the next day brought the contributions to his office in Kansas City, Missouri.
6. As I explained to the Treasurer, I had received the checks on or about October 8, 2004. Although I recorded this particular batch of checks on our internal spreadsheet, I didn't have time to finish processing them for deposit, so I returned the group of checks to the envelope and put them in the drawer until I could continue to process and deposit them later.
7. Our campaign manager placed a heavy emphasis on depositing all cash received in the bank before the end of a reporting period, so that our campaign finance disclosure reports would accurately reflect all cash on hand at the end of the reporting period. Therefore, I generally tried to get all of our campaign contributions in the bank and reported as promptly as possible after receipt, especially at the end of a reporting period.
8. In order to accurately track and deposit contribution receipts, when contributions were received I followed a very specific filing, recording and reporting

procedure. If I could not get to the checks when they arrived, I would put them in the drawer and return to them at my earliest opportunity. Normally, contributions were out of their envelopes and I could see them as a reminder of what needed to be done. However, in the rush of the end of the pre-general election campaign reporting period, I had set the envelope inside the desk drawer for safe keeping, until I could complete processing the checks for deposit.

9. Because the checks were in an unmarked envelope, I forgot that they were in the drawer and didn't find them again until I was cleaning out my desk on November 4.

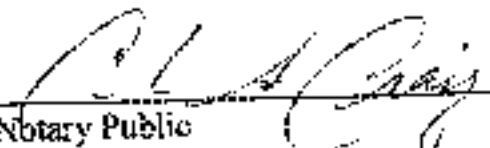
10. On November 4, 2004, after I informed the Committee Treasurer about the envelope with the checks, the Committee Treasurer instructed me to promptly deposit them in the official bank account.

Dated this 30th day of December, 2004.

Further Affiant sayeth not.


Robin A. McClean

Subscribed and sworn to me before this 30th day of December, 2004.


Notary Public

My Commission Expires

21 Sept 07

CARLA A. CRAIG
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires: Sept. 21, 2007

Federal Election Commission
**ENVELOPE REPLACEMENT PAGE
 FOR INCOMING DOCUMENTS**

The FEC added this page to the end of this filing to indicate how it was received.

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